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HOUSE BILL 612

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Dona G. Irwin

AN ACT

RELATING TO LIQUOR CONTROL; CLARIFYING THAT VINEYARDS AND
WINERY GROUNDS ARE INCLUDED AS PART OF LICENSED PREMISES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-3A-3 NMSA 1978 (being Laws 1981,
Chapter 39, Section 3, as amended) is amended to read:

"60-3A-3. DEFINITIONS.--As used in the Liquor Control
Act:

A. "alcoholic beverages" means distilled or
rectified spirits, potable alcohol, brandy, whiskey, rum, gin
and aromatic bitters bearing the federal internal revenue strip
stamps or any similar alcoholic beverage, including blended or
fermented beverages, dilutions or mixtures of one or more of
the foregoing containing more than one-half percent alcohol,
but excluding medicinal bitters;

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1 B. "beer" means an alcoholic beverage obtained by
2 the fermentation of any infusion or decoction of barley, malt
3 and hops or other cereals in water, and includes porter, beer,
4 ale and stout;

5 C. "brewer" means a person who owns or operates a
6 business for the manufacture of beer;

7 D. "club" means:

8 (1) any nonprofit group, including an
9 auxiliary or subsidiary group, organized and operated under the
10 laws of this state, with a membership of not less than fifty
11 members who pay membership dues at the rate of not less than
12 five dollars (\$5.00) per year and who, under the constitution
13 and bylaws of the club, have all voting rights and full
14 membership privileges, and which group is the owner, lessee or
15 occupant of premises used exclusively for club purposes and
16 which group the director finds:

17 (a) is operated solely for recreation,
18 social, patriotic, political, benevolent or athletic purposes;
19 and

20 (b) has been granted an exemption by the
21 United States from the payment of the federal income tax as a
22 club under the provisions of Section 501(a) of the Internal
23 Revenue Code of 1986, as amended, or, if the applicant has not
24 operated as a club for a sufficient time to be eligible for the
25 income tax exemption, it must execute and file with the

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1 director a sworn letter of intent declaring that it will, in
2 good faith, apply for ~~[such]~~ an income tax exemption as soon as
3 it is eligible; or

4 (2) an airline passenger membership club
5 operated by an air common carrier that maintains or operates a
6 clubroom at an international airport terminal. ~~[For the~~
7 ~~purposes of]~~ As used in this paragraph, "air common carrier"
8 means a person engaged in regularly scheduled air
9 transportation between fixed termini under a certificate of
10 public convenience and necessity issued by the ~~[civil~~
11 ~~aeronautics board]~~ federal aviation administration;

12 E. "commission" means the secretary of public
13 safety when the term is used in reference to the enforcement
14 and investigatory provisions of the Liquor Control Act and
15 means the superintendent of regulation and licensing when the
16 term is used in reference to the licensing provisions of the
17 Liquor Control Act;

18 F. "department" means the special investigations
19 division of the department of public safety when the term is
20 used in reference to the enforcement and investigatory
21 provisions of the Liquor Control Act and means the director of
22 the alcohol and gaming division of the regulation and licensing
23 department when the term is used in reference to the licensing
24 provisions of the Liquor Control Act;

25 G. "director" means the director of the special

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1 investigations division of the department of public safety
2 when the term is used in reference to the enforcement and
3 investigatory provisions of the Liquor Control Act and means
4 the director of the alcohol and gaming division of the
5 regulation and licensing department when the term is used in
6 reference to the licensing provisions of the Liquor Control
7 Act;

8 H. "dispenser" means a person licensed under the
9 provisions of the Liquor Control Act selling, offering for sale
10 or having in [~~his~~] the person's possession with the intent to
11 sell alcoholic beverages both by the drink for consumption on
12 the licensed premises and in unbroken packages for consumption
13 and not for resale off the licensed premises;

14 I. "distiller" means a person engaged in
15 manufacturing spirituous liquors;

16 J. "golf course" means a tract of land and
17 facilities used for playing golf and other recreational
18 activities that includes tees, fairways, greens, hazards,
19 putting greens, driving ranges, recreational facilities,
20 patios, pro shops, cart paths and public and private roads that
21 are located within the tract of land;

22 K. "governing body" means the board of county
23 commissioners of a county or the city council or city
24 commissioners of a municipality;

25 L. "hotel" means an establishment or complex having

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1 a resident of New Mexico as a proprietor or manager and where,
2 in consideration of payment, meals and lodging are regularly
3 furnished to the general public. The establishment or complex
4 must maintain for the use of its guests a minimum of twenty-
5 five sleeping rooms;

6 M. "licensed premises" means the contiguous areas
7 or areas connected by indoor passageways of a structure and the
8 outside dining, recreation and lounge areas of the structure
9 and the grounds and vineyards of a structure that is a winery
10 that are under the direct control of the licensee and from
11 which the licensee is authorized to sell, serve or allow the
12 consumption of alcoholic beverages under the provisions of its
13 license; provided that in the case of a restaurant, including a
14 restaurant that has operated continuously in two separate
15 structures since July 1, 1987 and that is located in a local
16 option district that has voted to disapprove the transfer of
17 liquor licenses into that local option district, hotel, golf
18 course or racetrack, "licensed premises" includes all public
19 and private rooms, facilities and areas in which alcoholic
20 beverages are sold or served in the customary operating
21 procedures of the restaurant, hotel, golf course or racetrack;

22 N. "local option district" means a county that has
23 voted to approve the sale, serving or public consumption of
24 alcoholic beverages, or ~~[any]~~ an incorporated municipality that
25 falls within a county that has voted to approve the sale,

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1 serving or public consumption of alcoholic beverages, or [~~any~~]
2 an incorporated municipality of over five thousand population
3 that has independently voted to approve the sale, serving or
4 public consumption of alcoholic beverages under the terms of
5 the Liquor Control Act or any former act;

6 O. "manufacturer" means a distiller, rectifier,
7 brewer or winer;

8 P. "minor" means a person under twenty-one years of
9 age;

10 Q. "package" means an immediate container of
11 alcoholic beverages that is filled or packed by a manufacturer
12 or wine bottler for sale by the manufacturer or wine bottler to
13 wholesalers;

14 R. "person" means an individual, corporation, firm,
15 partnership, copartnership, association or other legal entity;

16 S. "rectifier" means a person who blends, mixes or
17 distills alcohol with other liquids or substances for the
18 purpose of making an alcoholic beverage for the purpose of sale
19 other than to the consumer by the drink, and includes all
20 bottlers of spirituous liquors;

21 T. "restaurant" means an establishment having a New
22 Mexico resident as a proprietor or manager that is held out to
23 the public as a place where meals are prepared and served
24 primarily for on-premises consumption to the general public in
25 consideration of payment and that has a dining room, a kitchen

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1 and the employees necessary for preparing, cooking and serving
2 meals; provided that "restaurant" does not include
3 establishments as defined in rules promulgated by the director
4 serving only hamburgers, sandwiches, salads and other fast
5 foods;

6 U. "retailer" means a person licensed under the
7 provisions of the Liquor Control Act selling, offering for sale
8 or having in [~~his~~] the person's possession with the intent to
9 sell alcoholic beverages in unbroken packages for consumption
10 and not for resale off the licensed premises;

11 V. "spirituous liquors" means alcoholic beverages
12 as defined in Subsection A of this section except fermented
13 beverages such as wine, beer and ale;

14 W. "wholesaler" means a person whose place of
15 business is located in New Mexico and who sells, offers for
16 sale or possesses for the purpose of sale any alcoholic
17 beverages for resale by the purchaser;

18 X. "wine" includes the words "fruit juices" and
19 means alcoholic beverages obtained by the fermentation of the
20 natural sugar contained in fruit or other agricultural
21 products, with or without the addition of sugar or other
22 products, that do not contain less than one-half percent nor
23 more than twenty-one percent alcohol by volume;

24 Y. "wine bottler" means a New Mexico wholesaler who
25 is licensed to sell wine at wholesale for resale only and who

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1 buys wine in bulk and bottles it for wholesale resale;

2 Z. "winegrower" means a person who owns or operates
3 a business for the manufacture of wine; [~~and~~]

4 AA. "winer" means a winegrower; and

5 BB. "winery" means a facility in which a winegrower
6 manufactures and stores wine."

7 Section 2. Section 60-6A-31 NMSA 1978 (being Laws 1993,
8 Chapter 68, Section 37, as amended) is amended to read:

9 "60-6A-31. STATE FAIR--GOLF COURSES--ALCOHOLIC BEVERAGE
10 SALES RESTRICTIONS.--Sales, service, delivery or consumption of
11 alcoholic beverages shall be permitted on the grounds of the
12 state fair, [~~and~~] on the grounds of golf courses and on the
13 grounds and in the vineyards of a winery only on the licensed
14 premises in controlled access areas of the state fair, [~~and~~]
15 golf courses and wineries, the designation of which has been
16 negotiated as part of the license application or renewal
17 process."